

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

KEITH BARTELLI,

Plaintiff

-vs-

JEFFREY A. BEARD, et al.,

Defendants

:
:
:
:
:
:
:
:
:
:
:
:

NO. 3:CV-05-1285

(Judge Kosik)

MEMORANDUM AND ORDER

AND NOW, this 26th day of July, 2005, IT APPEARING TO THE COURT THAT:

(1) Plaintiff, Keith Bartelli, an inmate at the State Correctional Institution at Dallas, filed the above-captioned civil rights action pursuant to 42 U.S.C. §1983 on June 20, 2005;

(2) The action was assigned to United States Magistrate Judge Thomas M. Blewitt;

(3) On June 28, 2005, the Magistrate Judge issued a Report and Recommendation in which he recommended that the above-captioned action be dismissed;

(4) Specifically, the Magistrate Judge determined that the complaint should be dismissed pursuant to 28 U.S.C. §1915(g), also known as the "three strikes" rule. The Magistrate Judge points out that plaintiff filed three prior civil actions in this court which warranted dismissal for failure to state a claim and that plaintiff has not alleged that he is in any imminent danger of serious physical injury;

(5) Accordingly, the Magistrate Judge recommended that the above-captioned be dismissed;

(6) Plaintiff has failed to file timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(7) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a *de novo* review of his claims. 28 U.S.C.A. §636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987);

(8) We have considered the Magistrate Judge's Report and we concur with his recommendation;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Thomas M. Blewitt dated June 28, 2005 is ADOPTED;

(2) The above-captioned action is DISMISSED pursuant to 28 U.S.C. §1915(g); and,

(3) The Clerk of Court is directed to CLOSE the above-captioned action and forward a copy of this Memorandum and Order to the Magistrate Judge.

s/Edwin M. Kosik
United States District Judge